



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 210325-0071; RTID 0648-XB447]

### Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustment to the 2021 Specifications

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; inseason adjustment.

**SUMMARY:** NMFS increases the 2021 Atlantic herring annual catch limit and Area 1A sub-annual catch limit by 1,000 metric tons (mt). This action is required by the herring regulations when, based on data through October 1, the New Brunswick weir fishery lands less than 3,012 mt of herring. This notice informs the public of these catch limit changes.

**DATES:** Effective [*insert date of publication in the FEDERAL REGISTER*], through December 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Maria Fenton, Fishery Management Specialist, (978) 281-9196; or [Maria.Fenton@noaa.gov](mailto:Maria.Fenton@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS published final 2021 specifications for the Atlantic Herring Fishery Management Plan on April 1, 2021 (86 FR 17081), establishing the 2021 annual catch limit (ACL) and area sub-ACLs. Table 1 shows the original herring specifications for 2021 and the specifications as revised by this action for the remainder of the calendar year.

The NMFS Regional Administrator tracks herring landings in the New Brunswick weir fishery each year. The regulations at 50 CFR 648.201(h) require that if the New Brunswick weir fishery landings through October 1 are determined to be less than 3,012

mt, then NMFS subtracts 1,000 mt from the management uncertainty buffer and reallocates that amount to the ACL and Area 1A sub-ACL. When such a determination is made, NMFS is required to notify the New England Fishery Management Council and publish the ACL and Area 1A sub-ACL adjustment in the **Federal Register**.

Information from Canada’s Department of Fisheries and Oceans indicates that the New Brunswick weir fishery landed 1,209 mt of herring through October 1, 2021. Therefore, the Regional Administrator determined that, effective [*insert date of publication in the FEDERAL REGISTER*], 1,000 mt will be reallocated from the management uncertainty buffer to the Area 1A sub-ACL and the ACL. This 1,000 mt reallocation increases the Area 1A sub-ACL from 1,609 mt to 2,609 mt and the ACL from 4,128 mt to 5,128 mt. The revised specifications will be used to project when catch will reach 92 percent of the Area 1A sub-ACL or 95 percent of the ACL for the purpose of implementing a 2,000-pound (lb) (907-kilogram (kg)) herring possession limit in Area 1A or in all management areas, respectively.

**Table 1—Atlantic Herring Specifications for 2021**

	Original Specifications (mt)	Revised Specifications (mt)
Overfishing Limit	23,423	23,423
Acceptable Biological Catch	9,483	9,483
Management Uncertainty	4,669	3,669
Optimum Yield/ACL	4,128	5,128
Domestic Annual Harvest	4,814	4,814
Border Transfer	0	0
Domestic Annual Processing	4,814	4,814
U.S. At-Sea Processing	0	0
Area 1A Sub-ACL (28.9%)	1,609	2,609
Area 1B Sub-ACL (4.3%)	239	239
Area 2 Sub-ACL (27.8%)	652	652
Area 3 Sub-ACL (39%)	2,181	2,181
Fixed Gear Set-Aside	30	30
Research Set-Aside (RSA)*	0 percent of each sub-ACL	0 percent of each sub-ACL

\* Because RSA participants are not pursuing RSA in 2021, we did not deduct it from the sub-ACLs. RSA will to be revisited for 2023-2025 specifications.

## Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 648, which was issued pursuant to section 403(b), and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this in-season adjustment because it would be unnecessary and contrary to the public interest. This action allocates a portion of the management uncertainty buffer to the ACL and Area 1A sub-ACL for the remainder of the calendar year pursuant to a previously published regulation that provides no discretionary decision-making. This reallocation process was the subject of prior notice and comment rulemaking. The adjustment is routine and formulaic, required by regulation, and is expected by industry. The potential to re-allocate the management uncertainty buffer was also outlined in the final 2021 herring specifications that were published April 1 2021, which were developed through public notice and comment. Further, this reallocation provides additional economic opportunity for the herring fleet. If implementation of this action is delayed to solicit public comment, the objective of the fishery management plan to achieve optimum yield in the fishery could be compromised. Deteriorating weather conditions during the latter part of the fishing year may reduce fishing effort, and could also prevent the ACL from being fully harvested. This would result in a negative economic impact on vessels permitted to fish in this fishery. Based on these considerations, NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: October 26, 2021.

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Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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